

**REMARKS**

Claims 1-17 are pending in this application. Claims 1-4 and 14-17 stand rejected. Applicants wish to thank the Examiner for the indication of allowance of claims 5-13. In light of the remarks set forth below, Applicants respectfully submit that each of the pending claims is in immediate condition for allowance.

Claims 1-4 and 14-17 stand rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 6,225,540 (“Fernandez”). Applicants respectfully request reconsideration and withdrawal of this rejection.

To anticipate a claim under 35 U.S.C. § 102, the cited reference must disclose every element of the claim, as arranged in the claim, and in sufficient detail to enable one skilled in the art to make and use the anticipated subject matter. See, PPG Industries, Inc. v. Guardian Industries Corp., 75 F.3d 1558, 1566 (Fed. Cir. 1996); C.R. Bard, Inc. v. M3 Sys., Inc., 157 F.3d 1340, 1349 (Fed. Cir. 1998). A reference that does not expressly disclose all of the elements of a claimed invention cannot anticipate unless all of the undisclosed elements are inherently present in the reference. See, Continental Can Co. USA v. Monsanto Co., 942 F.2d 1264, 1268 (Fed. Cir. 1991).

Among the limitations in claim 1 neither disclosed nor suggested by Fernandez is:

a performance operator which is configured using a pressure sensor that detects pressure that is mounted on a base member, wherein the pressure sensor and the base member are encapsulated in a hold member that is made

by elastic material and is formed in a round shape suited for grip of the user

The above-quoted limitation is not shown or disclosed anywhere in Fernandez. Fernandez discloses an electronic bagpipe. A player depresses a bellows-type support with an arm. Pressure sensor 2 detects the pressure applied to the bellows-type support through contact with a metal strip 3 to produce sound. The bellows is supported by the players arm and the pressure is applied using the arm. The bellows-type support is not formed in a round shape suited for the grip of a user as explicitly recited in Applicants' claim. Further, the pressure sensor and base member are not encapsulated in the bellows-type support, as explicitly recited in Applicants' claim. As such, Applicants respectfully request withdrawal of this rejection.

Claims 3, 4, and 14-17 depend from and include all the limitations of either independent claim 1 or 2. These claims contain additional limitations directed towards patentable features. These dependent claims also recite additional limitations which, in combination with the limitations of claims 1 or 2, are neither disclosed nor suggested by Fernandez and are also directed towards patentable subject matter. Thus, claims 3, 4, and 14-17 should also be allowed.

Claims 1-4 and 14-17 stand rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 5,585,584 ("Usa"). Applicants respectfully request reconsideration and withdrawal of this rejection.

As discussed above, Applicants' claims 1 and 2 require:

a performance operator which is configured using a pressure sensor that detects pressure that is mounted on a base member, wherein the pressure sensor and the base member are encapsulated in a hold member that is made by elastic material and is formed in a round shape suited for grip of the user

This is not shown in the Usa reference. In Usa, a performance control apparatus is disclosed which can control the tempo of a performance in accordance with the motion of an operator, such as the simulated movement of a conductor. The motion is detected using gyroscopic sensors 2x and 2y. The Examiner apparently equates these gyroscopic sensors with Applicants' pressure sensors. This is incorrect as Usa's control apparatus does not detect pressure applied to a pressure sensor but merely senses motion detected by the gyroscopic sensors. As such, Usa fails to disclose Applicants' explicitly recited invention.

Claims 3, 4, and 14-17 depend from, and contain all the limitations of either claim 1 or 2. These dependent claims also recite additional limitations which, in combination with the limitations of claims 1 or 2, are neither disclosed nor suggested by Usa and are also believed to be directed towards the patentable subject matter. Thus, claims 3, 4, and 14-17 should also be allowed.

Applicants have responded to all of the rejections and objections recited in the Office Action. Reconsideration and a Notice of Allowance for all of the pending claims are therefore respectfully requested.

In view of the above, each of the presently pending claims in this application is believed to be in immediate condition for allowance. Accordingly, the

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Examiner is respectfully requested to withdraw the outstanding rejection of the claims and to pass this application to issue.

If the Examiner believes an interview would be of assistance, the Examiner is welcome to contact the undersigned at the number listed below.

Dated:

Respectfully submitted,

By

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